

AMENDED IN SENATE MAY 4, 2009

SENATE BILL

No. 393

Introduced by Senator Harman
(Coauthor: Assembly Member Huber)

February 26, 2009

An act to amend Section 3291 of the Civil Code, and to amend Section 685.010 of the Code of Civil Procedure, relating to judgments.

LEGISLATIVE COUNSEL'S DIGEST

SB 393, as amended, Harman. Judgments: interest.

The California Constitution provides that the rate of interest on a judgment rendered in any court of this state shall be set by the Legislature at not more than 10% per annum. Existing law provides that interest accrues at the rate of 10% per annum on the principal amount of a money judgment remaining unsatisfied.

~~This bill would provide that interest accrues on the principal amount of a money judgment remaining unsatisfied at a rate that is the lesser of 10% per annum or an amount equal to the prime rate determined and published by the Board of Governors of the Federal Reserve System, as specified, plus 2% on the day the judgment is entered.~~

Under existing law, if the plaintiff makes an offer that the defendant does not accept prior to trial or within 30 days, whichever occurs first, and the plaintiff obtains a more favorable judgment, the judgment shall bear interest at the legal rate of 10% per annum calculated from the date of the plaintiff's first offer that is exceeded by the judgment.

~~This bill would provide, if the plaintiff makes an offer that the defendant does not accept prior to trial or within 30 days, whichever occurs first, and the plaintiff obtains a more favorable judgment, that the portion of the judgment awarded as compensatory damages for~~

~~personal injury shall bear interest at a rate, calculated from the date of the plaintiff's first offer that is exceeded by the judgment, that is the lesser of 10% per annum or an amount equal to the prime rate determined and published by the Board of Governors of the Federal Reserve System, as specified, plus 2% on the day the judgment is entered.~~

This bill would instead provide that interest accrues at the federal short-term rate plus 2%, except as otherwise provided in a written contract, not to exceed 10% per annum on those judgments, as specified. The bill would require the Controller to annually establish the interest rate, as specified, and notify the auditor in each county of that rate.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 3291 of the Civil Code is amended to
2 read:

3 3291. (a) In any action brought to recover damages for personal
4 injury sustained by any person resulting from or occasioned by
5 the tort of any other person, corporation, association, or partnership,
6 whether by negligence or by willful intent of the other person,
7 corporation, association, or partnership, and whether the injury
8 was fatal or otherwise, it is lawful for the plaintiff in the complaint
9 to claim interest on the damages alleged as provided in this section.

10 (b) If the plaintiff makes an offer pursuant to Section 998 of the
11 Code of Civil Procedure that the defendant does not accept prior
12 to trial or within 30 days, whichever occurs first, and the plaintiff
13 obtains a more favorable judgment, ~~the portion of the judgment~~
14 ~~awarded as compensatory damages for personal injury shall bear~~
15 ~~interest at a rate that is the lesser of the following, calculated from~~
16 ~~the date of the plaintiff's first offer pursuant to Section 998 of the~~
17 ~~Code of Civil Procedure that is exceeded by the judgment, and~~
18 ~~interest shall accrue until the award of judgment:~~

19 ~~(1) Ten percent per annum.~~

20 ~~(2) An amount equal to the prime rate determined by the Board~~
21 ~~of Governors of the Federal Reserve System, as published in~~
22 ~~Statistical Release H.15, or any publication that may supersede it,~~
23 ~~plus 2 percent on the day the judgment is entered. judgment shall~~
24 *bear interest at the rate determined annually by the Controller*

pursuant to subdivision (c), except as otherwise provided in a written contract, not to exceed 10 percent per annum calculated from the date of the plaintiff's first offer pursuant to Section 998 of the Code of Civil Procedure which is exceeded by the judgment, and interest shall accrue until the satisfaction of judgment.

(c) On the 15th day of October of each year, the Controller shall ascertain the current federal short-term rate. For purposes of any section requiring interest to be computed at the rate per annum required by this section, the federal short-term rate as ascertained by the Controller, rounded to the nearest whole number percent, plus 2 percent, in a total amount not to exceed 10 percent, shall be the interest rate per annum used in making the computation for interest that accrues during the following year. Within 10 days after the interest rate per annum is determined under this section, the Controller shall notify the auditor of each county in writing of that rate of interest.

(d) As used in this section, "federal short-term rate" means the rate of the average market yield on outstanding marketable obligations of the United States with remaining periods to maturity of three years or less, as determined under Section 1274 of the Internal Revenue Code of 1986 (26 U.S.C. 1274), for July of the current year.

(e) This section shall not apply to a public entity, or to a public employee for an act or omission within the scope of employment. Neither the public entity nor the public employee shall be liable, directly or indirectly, to any person for any interest imposed by this section.

~~SEC. 2. Section 685.010 of the Code of Civil Procedure is amended to read:~~

~~685.010. (a) Interest accrues on the principal amount of a money judgment remaining unsatisfied at a rate that is the lesser of the following:~~

~~(1) Ten percent per annum;~~
~~(2) An amount equal to the prime rate determined by the Board of Governors of the Federal Reserve System, as published in Statistical Release H.15, or any publication that may supersede it, plus 2 percent on the day the judgment is entered.~~

~~(b) The Legislature reserves the right to change the rate of interest provided in subdivision (a) at any time to a lower rate per~~

1 ~~annum, regardless of the date of entry of the judgment or the date~~
2 ~~any obligation upon which the judgment is based was incurred.~~

3 *SEC. 2. Section 685.010 of the Code of Civil Procedure is*
4 *amended to read:*

5 685.010. (a) Interest accrues at the ~~rate of~~ *rate determined*
6 *annually by the Controller pursuant to subdivision (b), except as*
7 *otherwise provided in a written contract, not to exceed 10 percent*
8 *per annum on the principal amount of a money judgment remaining*
9 *unsatisfied.*

10 ~~(b) The Legislature reserves the right to change the rate of~~
11 ~~interest provided in subdivision (a) at any time to a rate of less~~
12 ~~than 10 percent per annum, regardless of the date of entry of the~~
13 ~~judgment or the date any obligation upon which the judgment is~~
14 ~~based was incurred. A change in the rate of interest may be made~~
15 ~~applicable only to the interest that accrues after the operative date~~
16 ~~of the statute that changes the rate.~~

17 *(b) On the 15th day of October of each year, the Controller*
18 *shall ascertain the current federal short-term rate. For purposes*
19 *of any section requiring interest to be computed at the rate per*
20 *annum required by this section, the federal short-term rate as*
21 *ascertained by the Controller, rounded to the nearest whole number*
22 *percent, plus 2 percent, in a total amount not to exceed 10 percent,*
23 *shall be the interest rate per annum used in making the*
24 *computation for interest that accrues during the following year.*
25 *Within 10 days after the interest rate per annum is determined*
26 *under this section, the Controller shall notify the auditor of each*
27 *county in writing of that rate of interest.*

28 *(c) As used in this section, “federal short-term rate” means the*
29 *rate of the average market yield on outstanding marketable*
30 *obligations of the United States with remaining periods to maturity*
31 *of three years or less, as determined under Section 1274 of the*
32 *Internal Revenue Code of 1986 (26 U.S.C. 1274), for July of the*
33 *current year.*

34 *SEC. 3. This act shall apply to all cases pending on, or filed*
35 *on or after, January 1, 2010.*